

Is the DMCA a scam?

I received my first DMCA takedown notice today. I published publicly-available IRS information about the nonprofit Kwaze-Kwasa [USA] Inc. Kwaze-Kwasa sent a letter to my ISP asking that it be taken down. I do not know why they want to keep this public information off the Internet, but I do know that the law lets them.

For those who aren't familiar, the Digital Millennium Copyright Act contained a section known as OCILLA (distinct from its also-famous anticircumvention provisions) that regulates publishing copyrighted material online.

There are three big parties with interests in this subject: copyright holders, who want strong tools to keep copyrighted material offline; ISPs, who don't want copyright law to apply to them' and Internet users, who want to be able to publish and read interesting content. OCILLA was largely written by ISPs and pretty much maximizes their interests at the expense of copyright holders and users.

I'm very glad that copyright holders get the short end of the stick — they want to modify the law to make sites like YouTube illegal, just because some people upload copyrighted material to it. If they had their way, websites based around user-generated content would pretty much be impossible.

But I am frustrated the law doesn't do enough for users. The takedown notice I was sent was obviously bogus — it didn't even allege a copyright violation, since the information I published wasn't even copyrightable (it was all basic facts and statistics published by the US government). Yet my ISP informed me that if I didn't take the page down, they'd take my entire website offline. And they have to do that because if they don't, they can be sued under the copyright law and could face very heavy penalties.

To get the page backup, I have to swear under penalty of perjury that I think the takedown was a mistake (yet the sender of a takedown does not have to swear that they think the takedown is valid!), consent to a lawsuit if the sender disagrees, and wait two weeks. Two weeks!

In short, the DMCA lets you get any page taken off the Internet for two weeks. This isn't just a law itching for abuse; it's a law being abused.

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